

MEMORANDUM TO: James J. Jochum  
Assistant Secretary  
for Import Administration

FROM: Ronald K. Lorentzen  
Acting Director  
Office of Policy

SUBJECT: Issues and Decision Memorandum for the Expedited Sunset  
Review of the Antidumping Duty Order on Sebacic Acid From  
the People's Republic of China; Final Results

Summary:

We have analyzed the substantive response of the only interested party participating in the second sunset review of the antidumping duty order on sebacic acid from the People's Republic of China ("China"). We recommend that you approve the positions we have developed in the *Discussion of the Issues* section of this memorandum. Below is the complete list of the issues in this sunset review for which we received substantive responses by the domestic interested party:

1. Likelihood of continuation or recurrence of dumping

- A. Weighted-average dumping margin
- B. Volume of imports

2. Magnitude of the margin likely to prevail

- A. Margin from the investigation

## History of the Order

On May 31, 1994, the Department of Commerce (“the Department”) determined that sebacic acid from China was being sold in the United States at less than fair value.<sup>1</sup> As a result, on July 14, 1994, the Department published in the *Federal Register* the antidumping duty order on sebacic acid from China.<sup>2</sup> In the *Department’s Investigation* and antidumping duty order, the Department determined the following weighted-average dumping margins.

Manufacturers/Producers/Exporters	Weighted-average margin (percentage)
Tianjin Chemicals Import & Export Corporation	59.67
Guangdong Chemicals Import & Export Corporation	57.00
Sinochem International Chemicals Company	43.72
Sinochem Jiangsu Import & Export Corporation	85.45
China-wide rate	243.40

The Department has completed five administrative reviews of this order. Currently, the Department is conducting a sixth administrative review covering the period July 1, 2002, to June 30, 2003.<sup>3</sup> The preliminary results of that administrative review are scheduled for November 27, 2004. The following is the history of the antidumping duty order as published in the *Federal Register*.

First administrative review, 62 FR 10530 (March 7, 1997):

Manufacturers/Producers/Exporters	Weighted-average margin (percentage)
Tianjin Chemicals Import/Export Corp.	0
Gungdong Chemicals Import/Export Corp.	13.54
Sinochem International Chemicals Corp.	70.54
China-wide rate	243.40

Amended first administrative review, 65 FR 1849 (January 12, 2000):

---

<sup>1</sup> See *Final Determination of Sales at Less Than Fair Value; Sebacic Acid from the People’s Republic of China*; 59 FR 28053 (May 31, 1994)(“*Department’s Investigation*”).

<sup>2</sup> See *Antidumping Duty Order: Sebacic Acid from the People’s Republic of China (PRC)*, 59 FR 35909 (July 14, 1994).

<sup>3</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 68 FR 50750 (August 22, 2003).

Manufacturers/Producers/Exporters	Weighted-average margin (percentage)
Tianjin Chemicals Import/Export Corp.	5.74
Guangdong Chemicals Import/Exports Corp.	36.50
Sinochem International Chemicals Corp.	75.36
Sinochem Jiangu Import/Export Corp	243.40
China-wide rate	243.40

Second administrative review, 62 FR 65674 ( December 15, 1997):

Manufacturer/Producers/Exporters	Weighted-average margin (percentage)
Tianjin Chemicals Import/Export Corp.	0.00
Gungdong Chemicals Import/Export Corp.	13.54
Sinochem International Chemicals Corp.	1.78
China-wide rate	243.40

Third administrative review, 63 FR 43373 (August 13, 1998):

Manufacturer/Producers/Exporters	Weighted-average margin (percentage)
Tianjin Chemicals Import/Export Corp.	1.09
Guangdong Chemicals Import/Export Corp.	10.18
Sinochem International Chemicals Corp.	0.11
Sinochem Jiangsu Import/Export Corp.	243.40
China-wide rate	243.40

Fourth administrative review, 64 FR 69503 (December 13, 1999).

Manufacturer/Producer/Exporter	Weighted-average margin (percentage)
Tianjin Chemicals Import/Export Corp.	2.74
Sinochem International Chemicals Corp.	0.00
Guangdong Chemicals Import/Export Corp.	9.01
China-wide rate	243.40

Fifth administrative review, 67 FR 69719 ( November 19, 2002).

Manufacturers/Producers/Exporters	Weighted-average margin (percentage)
Tianjin Chemicals Import/Export Corp.	Revoked
Guangdong Chemicals Import/Export Corp.	1.34

China-wide rate	243.40
-----------------	--------

The Department initiated its first sunset review of the antidumping duty order on sebacic acid from China on December 2, 1998, pursuant to section 751(c) of the Tariff Act of 1930, as amended (“the Act”).<sup>4</sup> On the basis of a notice of intent to participate and substantive comments filed on behalf of the domestic industry and no foreign response, we conducted an expedited sunset review. As a result of this sunset review, the Department determined, and the International Trade Commission (“Commission”) affirmed that revocation of the antidumping duty order on sebacic acid from China would be likely to lead to continuation or recurrence of dumping and material injury in the United States.<sup>5</sup> On September 1, 1999, the Department published in the *Federal Register* notice of continuation of the order.<sup>6</sup>

On May 28, 2003, the Department published the final results of a changed circumstances review in which it found that changed circumstances do not exist to warrant revocation of the order.<sup>7</sup> On July 1, 2004, the Department initiated a changed circumstances review, as requested by SST Materials Inc. d/b/a/ Genesis Chemical (“Genesis”), to determine whether the Department should reinstate the order with respect to subject merchandise produced by Hengshui and exported by Tianjin to the United States.<sup>8</sup>

The antidumping duty order on sebacic acid from China remains in effect for all manufacturers, producers, and exporters except for Tianjin Chemicals Import & Export Corporation, exporter of subject merchandise produced by Henghsui.<sup>9</sup>

---

<sup>4</sup> See *Initiation of Five-Year (“Sunset”) Reviews*, 63 FR 66527 (December 2, 1998)(“*Initiation Notice*”)

<sup>5</sup> See *Final Results of Expedited Sunset Review; Sebacic Acid From the People’s Republic of China*, 64 FR 16910 (April 7, 1999)(“*First Sunset Review*”).

<sup>6</sup> See *Continuation of Antidumping Duty Order; Sebacic Acid From the People’s Republic of China*; 64 FR 47766 (September 1, 1999)(“*Continuation Notice*”) and *Sebacic Acid from China; Determination and Views of the Commission*, Inv. No. 731-TA-653, USITC Pub. 3198 (May 1999).

<sup>7</sup> See *Final Results of Changed Circumstances Review and Intent Not to Revoke the Antidumping Duty Order*; 68 FR 31684 (May 28, 2003)(“*Changed Circumstances Review*”).

<sup>8</sup> See *Sebacic Acid From the People’s Republic of China; Notice of Initiation of Changed Circumstances Review*, 69 FR 14983 (July 1, 2004).

<sup>9</sup> See *Sebacic Acid From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review and Determination To Revoke Order in Part*, 67 FR 69719 (November 19, 2002).

## Background

On April 16, 2004, the Department received a Notice of Intent to Participate from Genesis, within the deadline specified in section 315.218(d)(1)(i) of the Department's regulations. Genesis claimed interested party status under section 771(9)(C) of the Act. Genesis is currently the sole remaining producer of sebacic acid in the United States and is participating in the ongoing administrative review before the Department. *See* Genesis Substantive Response, ("Genesis Response") April 30, 2004, at 2.

On April 30, 2004, the Department received a complete substantive response from Genesis within the deadline specified in section 351.218(d)(3)(i) of the Department's regulations. We did not receive responses from any respondent interested parties to this proceeding. As a result, pursuant to section 751(c)(3)(B) of the Act and section 351.218(e)(1)(ii)(C)(2) of the Department's regulations, the Department conducted an expedited sunset review of this order.

## Discussion of the Issues

In accordance with section 751(c)(1) of the Act, the Department conducted this sunset review to determine whether revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making these determinations, the Department shall consider the weighted-average dumping margins determined in the investigations and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping duty order. In addition, section 752(c)(3) of the Act provides that the Department shall provide to the Commission the magnitude of the margin of dumping likely to prevail if the order were revoked. Below we address the comments of the interested parties.

### 1. Likelihood of Continuation or Recurrence of Dumping

#### Interested Party Comments

Genesis contends that revocation of the antidumping duty order on sebacic acid from China would have a materially adverse effect on Genesis and would likely eliminate Genesis as the sole domestic producer of the subject merchandise. *See Genesis Response*, May 3, 2004, at 2. Further, Genesis claims that there has been a dramatic increase of subject imports and a significant reduction in U.S. price. *See Genesis Response* at 4. Genesis supports its contention by stating that the Department has maintained a China-wide dumping margin of 243.20 percent since the investigation.<sup>10</sup> *Id.* In addition, between 1991 and 1993, the year before the order was in place, imports of subject merchandise accounted for 91.6 percent to 98.8 percent of the total domestic imports. *Id.* Genesis notes several factors to demonstrate that imports of sebacic acid from China are likely to be significant if the order is revoked. *Id.* First, the post-1995 increase in

---

<sup>10</sup> In their response of May 3, 2004, domestic interested parties incorrectly stated a China-wide rate of 243.20 percent as the rate from the investigation. The correct China-wide rate as found in the investigation is 243.40 percent.

import volume of sebacic acid followed the Department's lowering of the margins for some producers as a result of administrative reviews. Second, the Chinese industry remains export-oriented, with two substantial Chinese exporters specifically listing the United States among their markets for sebacic acid. *Id.* Third, the Commission concluded in its report of 1999, that sebacic acid imports from China consistently undersold the domestic like product; therefore, revocation of this order would likely lead to significant price effects, including significant underselling by the subject imports of the domestic like products, as well as significant price depression and suppression. *Id.* at 5. Finally, Genesis claims that there would be significant financial effects on Genesis and the domestic industry if the order were to be revoked, such as a decline in output, sales, market share, profits, productivity, return on investments, and utilization of capacity. In addition, it would substantially affect its cash flow, inventories, employment wages, growth, ability to raise capital, and investments. *Id.* at 5 - 6.

### Department's Position

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act ("URAA"), specifically the SAA, H.R. Doc. No. 103-316, vol. 1 (1994) at 826, the House Report, H. Rep. No. 103-826, pt. 1 (1994), and the Senate Report, S. Rep. No. 103-412 (1994), the Department issued its *Sunset Policy Bulletin* providing guidance on methodological and analytical issues, including the bases for likelihood determinations. *See Policies Regarding the Conduct of the Five-Year ("Sunset") Reviews of Antidumping & Countervailing Duty Orders*, Policy Bulletin, No. 98.3 (April 16, 1998) ("*Sunset Policy Bulletin*"). The Department clarified that determinations of likelihood will be made on an order-wide basis. *See Sunset Policy Bulletin* at section II.A.2. In addition, the Department indicated that normally it will determine that revocation of an antidumping order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly. *See Sunset Policy Bulletin* at section II.A.3.

In addition to considering the guidance on likelihood cited above, section 751(c)(4)(B) of the Act provides that the Department shall determine that revocation of the order would be likely to lead to continuation or recurrence of dumping where a respondent interested party does not participate in the sunset review. In this sunset review, the Department did not receive a response from any respondent interested party. Pursuant to section 351.218(d)(2)(iii) of the *Department's Regulations*, this constitutes a waiver of participation.

The Department considered the weighted-average dumping margins determined in the investigation and subsequent reviews, as well as the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping duty order.

With respect to weighted-average dumping margins, the Department has completed five administrative reviews since the issuance of the order. In each of these reviews, the Department found dumping margins above *de minimis* levels, with the exception of Tianjin for which the Department revoked the order with respect to its exports of subject merchandise produced by

Hengshui.<sup>11</sup> Furthermore, the Department and the Commission made an affirmative likelihood determination in the first sunset review of this order. *See Department First Sunset Review*, 64 FR 16910 (April 7, 1999).

Consistent with section 752(c)(1)(B) of the Act, the Department considered the volume of imports before and after issuance of the order. Import statistics compiled from tariff and trade data from the Department, the U.S. Treasury, and Commission shows that in 1992, pre-order import volumes of sebacic acid from China totaled 2,298,270 kilograms, and in 1993, imports totaled 2,307,387 kilograms. In 1994, the year of the imposition of the antidumping duty order, imports dropped sharply to 612,637 kilograms. However, as noted by Genesis and confirmed by the Department, since 1996 imports of sebacic acid from China have been increasing and in 2003 imports reached close to pre-order volumes. We note also that dumping margins for some companies have declined and one company, Tianjin, has been excluded from the order. Therefore, we will not consider likelihood of continuation or recurrence of the order based on import volumes; rather, based on the analysis of the evidence on the record, Genesis's comments, and existence of dumping margins above levels of *de minimis* after the issuance of the order, the Department finds that dumping is likely to continue or recur if the antidumping order on sebacic acid from China were to be revoked.

## 2. Magnitude of the Margin

Genesis asserts that a dumping margin of 243.20 percent would result if the antidumping duty order were to be revoked given that there have been no market changes justifying a reduced duty-rate. *Id.* at 7.

### Department's Position:

In the *Sunset Policy Bulletin*, the Department stated that it normally will provide to the Commission the margin that was determined in the final determination in the original investigation. For companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the "All Others" rate from the investigation because these rates are the only calculated rates that best reflect the behavior of exporters without the discipline of the order in place. *See Sunset Policy Bulletin* at section II.B.1. Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. *See Sunset Policy Bulletin* at section II.B.2 and 3.

In the investigation, the Department determined dumping margins that ranged from 43.72 percent to 243.40 percent for four companies. The Department has conducted several administrative reviews since the issuance of the order in 1994. As noted in the case history

---

<sup>11</sup> *See Sebacic Acid From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Determination To Revoke Order in Part*, 67 FR 69719 (November 19, 2002).

section above, the Department found weighted-average dumping margins for several companies and a country-wide rate of 243.40 percent continue to exist. Therefore, in accordance with the *Sunset Policy Bulletin* and absent an argument that a more recently calculated margin is more indicative of the margin likely to prevail if the order were to be revoked, we determine that the original margins calculated in the Department's original investigation are probative of Chinese producers and exporters of sebacic acid if the order were to be revoked. We will report to the Commission the company-specific and China-wide rate contained in the Final Results of Review section of this notice.

#### Final Results of Review

As a result of this review, the Department finds that revocation of the antidumping order would likely lead to continuation or recurrence of dumping at the margin listed below.

Manufacturers/Producers/Exporters	Weighted-average margin (percent)
Sinochem Jiangsu Import & Export Corporation	85.48
Tianjin Chemical Import & Export Corporation	Revoked
Guangdong Chemicals Import & Export Corporation	57.00
Sinochem International Chemicals Company	43.72
China-wide rate	243.40

#### Recommendation

Based on our analysis of the substantive responses received, we recommend adopting all of the above positions. If these recommendations are accepted, we will publish the final results of review in the *Federal Register*.

Agree \_\_\_\_\_

Disagree \_\_\_\_\_

\_\_\_\_\_  
James J. Jochum  
Assistant Secretary  
for Import Administration

\_\_\_\_\_  
Date



